

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ALVETO RIVERA,

Plaintiff,

v.

ORDER

Civil File No. 12-1479 (MJD/FLN)

IMO KALLA, LUKE DEHAAN,
STANLEY QUANBECK, M.D.,
SARA HARD, SHERYL VEZNER,
REGINA STEPNEY, and JE LIND,

Defendants.

Alveto Rivera, pro se.

Kelly S. Kemp, Assistant Attorney General, Minnesota Attorney General's Office,
Counsel for Defendants Imo Kalla, Sara Hard, and Regina Stepney.

Charles A. Gross and Andrea Pavelka Hoversten, Geraghty, O'Loughlin &
Kenney, P.A., Counsel for Defendants Stanley Quanbeck, M.D. and Luke
DeHaan.

This matter is before the Court on Plaintiff Alveto Rivera's Reply
Memorandum of Law to the Defendants Luke DeHaan, Stanley Quanbeck in
Regarding the Magistrate Judge Report and Recommendation [Docket No. 130]
and Plaintiff's Reply Memorandum to Sara Hard and Regina Stepney in

Regarding Report and Recommendation of the Magistrate Judge [Docket No. 131].

On February 11, 2014, Plaintiff filed objections [Docket No. 122] to the Report and Recommendation of United States Magistrate Judge Franklin L. Noel dated January 29, 2014 [Docket No. 121]. On February 24, 2014, Defendants filed two separate responses to Plaintiff's objections. [Docket Nos. 125, 126] On March 4, 2014, after considering the objections and responses, the Court issued an Order adopting the Report and Recommendation. [Docket No. 128]

On March 7, 2014, Plaintiff then filed two replies to Defendants' responses. [Docket Nos. 130, 131] However, the Court does not afford a right to reply in the Report and Recommendation context. Out of an abundance of caution, the Court will interpret Plaintiff's replies as motions for reconsideration of its Order adopting the Report and Recommendation.

"The Federal Rules of Civil Procedure 'do not mention motions for reconsideration.'" Elder-Keep v. Aksamit, 460 F.3d 979, 984 (8th Cir. 2006) (citation omitted). However, the Eighth Circuit has held that motions for reconsiderations are "nothing more than Rule 60(b) motions when directed at non-final orders." Id. It is appropriate to apply the requirements of the Local

Rules and of Rule 60(b) to motions deemed to be motions for reconsideration.

See id. at 985.

The Local Rules provide that a motion for reconsideration can only be filed with the Court's prior permission, which must be predicated upon "compelling circumstances." D. Minn. L.R. 7.1(j). Federal Rule of Civil Procedure 60(b) provides that parties may receive relief from an order due to, inter alia, mistake, newly discovered evidence, fraud, or "any other reason that justifies relief." The district court's decision on a motion for reconsideration rests within its discretion. Hagerman v. Yukon Energy Corp., 839 F.2d 407, 413 (8th Cir. 1988). "Motions for reconsideration serve a limited function: to correct manifest errors of law or fact or to present newly discovered evidence." Id. at 414 (citation omitted).

Even while Plaintiff has not adhered to the procedural requirements for motions for reconsideration, the Court has thoroughly reviewed Plaintiffs' requests and concludes that its March 4, 2014 Order adopting the Report and Recommendation of United States Magistrate Judge Noel dated January 29, 2014 contains no manifest errors of law or fact. The Court concludes that there are no

other reasons—under Rule 60(b), the case law, or otherwise—to alter its March 4, 2014 Order.

Accordingly, based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED:**

1. Plaintiff Alveto Rivera's Reply Memorandum of Law to the Defendants Luke DeHaan, Stanley Quanbeck in Regarding the Magistrate Judge Report and Recommendation [Docket No. 130], interpreted as a Motion for Reconsideration, is **DENIED**.
2. Plaintiff's Reply Memorandum to Sara Hard and Regina Stepney in Regarding Report and Recommendation of the Magistrate Judge [Docket No. 131], interpreted as a Motion for Reconsideration, is **DENIED**.

Dated: April 22, 2014

s/ Michael J. Davis

Michael J. Davis

Chief Judge

United States District Court